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PATENT
Attorney Docket No.: HELLO-08601

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Peter O. Schmidt *et al.*

Serial No.: 09/801,442

Filed: March 7, 2001

For: **AN ELECTRONIC DEVICE
UTILIZING AN EARPLUG
SUPPORT ELEMENT AND
METHOD FOR PROVIDING THE
SAME**

) Group Art Unit: 2643

) Examiner: Tran, S.

) **TRANSMITTAL LETTER**

) 162 N. Wolfe Road
) Sunnyvale, CA 94086
) (408) 530-9700

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OFFICE OF PETITIONS

Assistant Commissioner of Patents
Washington, D.C. 20231

Sir:

Enclosed please find a Rescission of Request for Non-Publication and a Petition Under 37 C.F.R. §122(b)(2)(B)(iii) for Acceptance of Late Withdrawal of Request for Non-Publication, for filing in the U.S. Patent and Trademark Office. Also attached is a check in the amount of \$1280.00 to cover the petition fee under 37 C.F.R. §1.17(m).

The Commissioner is hereby authorized to charge any additional fee or credit overpayment to our Deposit Account No. 08-1275. **An originally executed duplicate of this transmittal is enclosed for this purpose.**

05/31/2002 AWONDAF1 00000009 09801442

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1280.00 OP

Respectfully submitted,
HAVERSTOCK & OWENS LLP

Dated: 5-10-02

By:

Thomas B. Haverstock
Reg. No.: 32,571

Attorneys for Applicants

CERTIFICATE OF MAILING (37 CFR § 1.8(a),

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the U.S. Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to the: Assistant Commissioner for Patents, Washington D.C. 20231

HAVERSTOCK & OWENS LLP.

Date: 5-10-02

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Peter O. Schmidt et al.)
Serial No.: 09/801,442)
Filed: March 7, 2001)
For: **ELECTRONIC DEVICE**)
UTILIZING A CLIP AND)
METHOD FOR PROVIDING)
THE SAME)

Group Art Unit: 2643

Examiner: Tran, S.

**PETITION UNDER 37 C.F.R. § 1.181
AND 35 U.S.C. §122(b)(2)(B)(iii) FOR
ACCEPTANCE OF LATE
WITHDRAWAL OF REQUEST FOR
NON-PUBLICATION**

162 N. Wolfe Road
Sunnyvale, California 94086
(408) 530-9700

Honorable Commissioner of Patents
and Trademarks
Washington, D.C. 20231

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JUN 06 2002

OFFICE OF PETITIONS

Sir:

The applicants hereby petition under 37 C.F.R. § 1.181 AND 35 U.S.C. §122(b)(2)(B)(iii) for acceptance of late withdrawal of request for non-publication. It was unintentional that this withdrawal of the request for non-publication was filed late. A petition fee under 37 C.F.R. § 1.17(m) of \$1280.00 is also enclosed.

Following the introduction of the rules providing for publication of U.S. patent applications, the law firm of Haverstock & Owens LLP instituted two new procedures for docketing entries to prevent an application from being filed in a foreign jurisdiction which automatically publishes while leaving a request for non-publication. First, a docket entry is automatically calendared when a PCT application is filed to check the U.S. parent case and determine whether a request for non-publication was lodged, and if so, to withdraw such request. Second, when a U.S. patent application is filed a docket entry is automatically calendared for twelve months from the filing, to remind the responsible attorney at the foreign filing deadline to check whether a foreign application was filed and determine whether a request for non-publication needed to be withdrawn.

Once each week, a docket meeting is convened during which our foreign filing assistant was instructed to prepare a withdrawal of the request for non-publication in this case. This assistant is generally reliable; upon providing such assignments to our foreign filing assistant, I presume that the assigned task will be completed and submitted for my review and signature.

Upon discovering on May 6, 2002, that the assigned task was in fact not done, I immediately prepared this petition.

In this case, we were instructed to file a PCT application which claims priority of two U.S. cases. In particular the other case is U.S. Patent Application, Serial No. 09/801,398, filed March 7, 2001. Though we intended to rescind the request for non-publication, through inadvertance, we only rescinded the request for withdrawal from publication in the file for 09/801,398. As it is unusual for us to file a PCT application that claims priority of more than one U.S. application, we unintentionally failed to file this application.

RESCISSION OF REQUEST FOR NON-PUBLICATION

The request for non-publication of this application identified above, filed with the original application papers, is hereby rescinded.

Respectfully submitted,
HAVERSTOCK, & OWENS LLP

Dated: 5-10-02

By: Thomas B. Haverstock
Thomas B. Haverstock
Reg. No. 32,571

Attorneys for Applicant(s)

CERTIFICATE OF MAILING (37 CFR § 1.8(b))

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the U.S. Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to the: Assistant Commissioner for Patents, Washington D.C. 20231

HAVERSTOCK & OWENS LLP

Date: 5-10-02 By: Tuan A. Rader